

Notice of Allowability

Application No.

09/823,307

Applicant(s)

KROCZEK, RICHARD

Examiner

ILIA OUSPENSKI

Art Unit

1644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 01/17/2006.
2. ☒ The allowed claim(s) is/are 21,25-28,30 and 32-35, renumbered 1 - 10.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some* c) ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
 - ☒ Certified copies of the priority documents have been received in Application No. 09/509,283.
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>04/12/2006</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

DETAILED ACTION

1. Applicant's amendments/remarks, filed 01/17/2006, are acknowledged, and have been entered.

Claims 1 – 20, 22 – 24, 29, and 31 have been cancelled previously.

Claims 36 – 40 have been added.

Claims 21 and 30 have been amended.

Claims 21, 25 – 28, 30, and 32 – 40 are pending.

2. An Examiner's Amendment to the record appears below. Should the changes and/or additions be unacceptable to Applicant, an amendment may be filed as provided by 37 C.F.R. § 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the Issue Fee.

3. Authorization for this Examiner's Amendment was given by Muna Abu-Shaar on behalf of Nikolaos George in a telephone interview with the Examiner on 04/12/2006.

Examiner's Amendment

In the Specification:

4. The TITLE has been replaced with:
-- METHODS OF MODULATING T LYMPHOCYTE COSTIMULATION WITH AN
ANTIBODY TO AN 8F4 POLYPEPTIDE --

5. On page 1, the first paragraph of the section entitled "Cross-Reference to
Related Application" has been replaced with:

-- This application is a continuation of US Patent Application No. 09/509,283,
filed August 11, 2000, which is the national stage of the international application
PCT/DE98/02896, filed September 23, 1998, which claims priority to German
applications, DE 19821060.4, filed May 11, 1998, and DE 19741929.1, filed
September 23, each of which is incorporated herein by reference in its entirety. --

In the Claims:

6. Claims 36 – 40 have been canceled.
7. Claim 28 has been replaced with:
-- The method of claim 21, wherein the human 8F4 polypeptide also occurs on
activated human CD8⁺ T lymphocytes. --
8. Claim 35 has been replaced with:
-- The method of claim 30, wherein the human 8F4 polypeptide also occurs on
activated human CD8⁺ T lymphocytes. --

Reasons for Allowance

9. The following is an Examiner's Statement of Reasons for Allowance:

The Examiner's Amendment set forth supra, in conjunction with Applicant's amendment and in view of Judgment by the Board of Patent Appeals and Interferences (mailed 06/21/2005; Interference No. 105,168), have obviated the previous rejections of record.

Claims 21, 25 – 28, 30, and 32 – 35 are pending and allowed.

The prior art does not teach or suggest the claimed methods of inhibiting T lymphocyte costimulation.

10. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ILIA OUSPENSKI whose telephone number is 571-272-2920. The examiner can normally be reached on Monday-Friday 9 - 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on 571-272-0841. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ILIA OUSPENSKI

Patent Examiner

Art Unit 1644

April 13, 2006

PHILLIP GAMBEL
PHILLIP GAMBEL, PH.D. J.D.
PRIMARY EXAMINER
TC 1600
4/14/06